

III. Claims 42-43, 48-57, drawn to nucleic acid compositions (e.g. SEQ ID NOS: 5-6), classified in class 536, subclass 23.1; class 424, subclass 93.1.

### Remarks

In response to the restriction requirement, Applicants provisionally elect, with traverse, Group I – claims 42-45, 48, and 51-57 for further prosecution on the merits. Applicants reserve their right to file divisional applications directed to the nonelected inventions. However, Applicants respectfully request that the Examiner withdraw the restriction requirement for the reasons provided below.

In the office action, the Examiner states that the inventions are distinct from one another because “they are drawn to distinct nucleic acids having different functional characteristics (e.g. different regulatory and coding functions)” and encode distinct polypeptides under distinct regulatory sequences. According to the Examiner the nucleic acids of each group have different modes of operation, function and effects.

In response, Applicants respectfully disagree. First, there is no evidence in the art that the HCV nucleic acid sequences of the invention are controlled by different regulatory sequences. Therefore, this distinction cannot be made. Second, the nucleic acid sequences of the invention function similarly in that the compositions comprising the nucleic acid sequences would be used for therapeutic purposes, e.g. as vaccines, and would result in the same effect, e.g. immunizing a subject against hepatitis C virus. Finally, this application is a divisional application of parent application Serial No. 09/014,416, now U.S. Patent No. 6,153,421, which was also the subject of a restriction requirement, and which contains claims directed to purified and isolated

nucleic acid molecules of all of the SEQ ID NOs. claimed herein. Therefore, Applicants respectfully request that the Examiner rejoin the present claims directed to compositions comprising the same sequences as the parent application into a single application.

Early and favorable action by the Examiner is respectfully requested.

**Authorization**

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Deposit Account 13-4500, Order No. 2026-4276US1. A DUPLICATE COPY OF THIS SHEET IS ATTACHED.

Respectfully submitted,

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